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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,983	02/05/2004	Adcilton Jorge Martins	132654	5216
7590	04/07/2006		EXAMINER	
John S. Beulick Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			JOHNSON, JONATHAN J	
			ART UNIT	PAPER NUMBER
			1725	
DATE MAILED: 04/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Office Action Summary</i>	Application No.	Applicant(s)
	10/772,983	MARTINS ET AL.
Examiner	Art Unit	
	Jonathan Johnson	1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 February 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 1-7, 9, 10 and 17 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 8, 11-16 and 18-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 11-14, 16, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,319,179 (Joecks). Joecks teaches rear wall, a front wall opposite said rear wall, a pair of opposed end walls, and a dividing wall defining a welding chamber therein, said welding chamber sized to receive a component being welded therein (figure 1, sections of item 1); a gas delivery system for supplying a protective gas into the SWET box and said enclosure (figure 1, item 5); and a lid coupled to the SWET box and extending over the heating chamber and said enclosure, encasing the heating chamber and said enclosure (figure 1, item 25); wherein said gas delivery system includes a diffuser positioned adjacent a floor of said welding chamber, said diffuser coupled to a protective gas source through said floor of said welding chamber (figure 1, item 3); wherein said diffuser comprises an array of perforated tubes (figure 1, network of conduits); a blade support positioned above said diffuser, said support including a perforated base in flow communication with said diffuser (figure 1, item 6); wherein said blade support is separated from said diffuser by a layer of mesh material (figure 1, item 3);

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,319,179 (Joecks) as applied to claim 8 above and further in view of US 5,981,897 (Offer). Offer teaches a plurality of a plurality of diffuser cups from the top of the weld (figure 4, item 28). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gas delivery system of Joecks to utilize the particular diffuser arrangement of offer having the gas provided at the top of the container in order to ensure a strong weld joint (see Offer col. 1, ll. 20-50).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,319,179 (Joecks) as applied to claim 16 above and further in view of US 5,981,897 (Offer). Offer teaches a plurality of a plurality of diffuser cups from the top of the weld (figure 4, item 28). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gas delivery system of Joecks to utilize the particular diffuser arrangement of offer having the gas provided at the top of the container in order to ensure a strong weld joint (see Offer col. 1, ll. 20-50).

Response to Arguments

Applicant argues Joecks describes a container including a heat chamber that includes an enclosure defined therein that is not sized to receive a component being welded therein. The examiner disagrees. The examiner understands that, as with any other claim limitation, functional language is acceptable so long as it sets definite boundaries on the patent protection sought. *In re Barr*, 170 USPQ 33 (CCPA 1971). A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In the instant case, it is the examiner's position that by welding the workpiece in the chamber, Joecks teaches the chamber is adequately sized to receive the component.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Johnson whose telephone number is 571-272-1177. The examiner can normally be reached on M-Th 7:30 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jonathan Johnson
Primary Examiner
Art Unit 1725

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